IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:07.09.2006

CORAM:

THE HON'BLE MR. JUSTICE P. SATHASIVAM
AND
THE HON'BLE MR. JUSTICE S. MANIKUMAR

..

WRIT APPEAL Nos.3133 of 2001 & 46 of 2003
and WAMP.No.3440 of 2003

1. The Special Tahsildar (LA)
   Neighbourhood Scheme, Salem.

2. The State of Tamil Nadu rep.
   by its Commissioner and
   Secretary to Government
   Housing and Urban Development
   Department, Madras. .. Appellants in
   WA.No.3133/2001

1. The Government of Tamilnadu
   by the Commissioner and
   Secretary to Government
   Housing and Urban Development
   Department, Fort St. George
   Madras 9.

2. The Executive Engineer and
   Administrative Officer
   Salem Housing Unit
   Aiyantherumaligai Road
   Salem 8.

3. The Special Tahsildar (Land
   Acquisition) Jawar's Building
   Fort Main Road, Salem 1. .. Appellants in
   WA.No.46 of 2003

vs.

1. K.K. Nagar Housing Society
   Salem by its President
   Dr. V. Muthuswami

2. The Chairman, Tamil Nadu Housing
   Board, Madras. .. Respondents in
   WA.No.3133 of 2001

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1. C. Kuppuraj
2. C Rangaraj
3. C. Vasantha @ Vanaja
4. C. Revathi
5. C. Thilakam .. Respondents in
WA.No.46 of 2003

Writ Appeals filed under Clause 15 of the Letters of Patent against the order of the learned Judge Mr. Justice Govindasamy dated 3.10.1991 and 11.10.1991 made in W.P.Nos.10211 of 1984 and 13423 of 1986 respectively. WP 10211/84 Petition under Article 226 of the constitution of India, praying to issue writ of Certiorari calling for the records relating to the acquisition proceedings as declared under section 6 of the Land Acquisition Act of the 3rd respondent in G.O.Ms.No.449 Housing and Urban Development dt. 12.6.84 in so far as it relates to the petitioner's land and quash the same.

WP No.13423 of 1986: Petition under Article 226 of the constitution of India praying to issue writ of Certiorari calling for the records relating to the acquisition Act 1894 in G.O.Ms.No.1126, Housing and Urban Development Department dated 26.7.1983 and published in the Tamil Nadu Government Gazette Extraordinary dt. 29.7.1983 in so far as it relates to the lands of the petitioner herein and quash the same.

For appellants : Mr. C. Thirumaran
Government Advocate

For respondents : Mr. Kasikumar for R.2 in WA.3133/01

No appearance in WA.46/03.

COMMON JUDGMENT

(Judgement of the Court was delivered by P. SATHASIVAM,J.)

The Special Tahsildar (Land Acquisition) Neighbourhood Scheme, Salem and the State of Tamil Nadu represented by its Commissioner and Secretary to Government, Housing and Urban Development Department, Chennai-9 are the appellants in WA.No.3133 of 2001 and WA.No.46 of 2003. They filed the above appeals against the orders of the learned single Judge dated 03.10.1991 and 11.10.1991 made in W.P.Nos.10211 of 1984 and 13423 of 1986 respectively.

2. In view of the order to be passed hereunder, it is unnecessary for us to refer all the factual details as stated by the appellants and respondents.

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3. In W.P.No.10211 of 1984, K.K. Nagar Housing Society, Salem through its President Dr. V. Muthusamy, challenged the acquisition proceedings on various grounds. The learned single Judge without going into all the contentions, after pointing out that the public purpose stated in the notification was vague and because of the same the petitioner was not in a position to raise its objection and convince the authorities to drop further proceedings and following the decisions of this Court in State of Tamil Nadu vs. A. Mohammad Yousef (1990 (2) Madras L.J. 149) and L. Krishnan vs. State of Tamil Nadu (1991 (2) Madras L.J.150), quashed the notification on the ground that the public purpose specified therein was vague and it did not contain all material particulars. Following the said decisions, for the same reasons, the learned Judge allowed W.P.No.13423 of 1986. Aggrieved by the orders of the learned Single Judge, the above writ appeals have been preferred.

4. Mr. C. Thirumaran, learned Government Advocate appearing for the appellants has brought to our notice that the view taken by this Court in State of Tamil Nadu vs. A. Mohammad Yousef (1990 (2) Madras L.J. 149) as well as L. Krishnan vs. State of Tamil Nadu (1991 (2) Madras L.J. 150) has been reversed by the Supreme Court in the case of State of Tamil Nadu vs. L. Krishnan (A.I.R. 1996 SC. 497). According to him, their Lordships of the Supreme Court have not approved the conclusion of this Court quashing the notification on the ground of vagueness. The Supreme Court, after finding that the public purpose described in the notification is sufficiently clear, permitted the Government and the Housing Board to proceed with further. The same view has been reiterated by the Supreme Court in the latest decision reported in State of Karnataka vs. All India Manufacturers Organisation (2006 (4) SCC 683).

5. In the light of the law laid down by the Supreme Court in the above referred cases, the conclusion arrived at by the learned Judge in both the writ petitions cannot be sustained. Inasmuch as the learned Judge has not gone into other points raised by the petitioners / land owners and in the absence of assistance from the side of the respondents before us, we are constrained to remit back the matter for fresh disposal on merits and accordance with law in respect of other points raised.

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6. The learned Government Advocate has also raised an objection regarding maintainability of the writ petition No.10211 of 1984, wherein the petitioner is K.K. Nagar Housing Society, Salem. The respondents / Government and Housing Board are permitted to raise this objection also before the learned Judge. Consequently, both the writ appeals are allowed and the orders of the learned single Judge made in W.P.Nos.10211 of 1984 and 13423 of 1986 are set aside. No costs. The registry is directed to include both the writ petitions, viz., W.P.Nos.10211 of 1984 and 13423 of 1986 before the learned

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Judge dealing with the subject for final hearing within two weeks from today, since both the writ petitions are of the year 1984 and 1986 respectively.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

The Chairman,
Tamilnadu Housing Board,
Madras.

2. The Special Tahsildar (LA)
Neighbourhood Scheme
Salem.

3. The Commissioner and
Secretary to Government of Tamilnadu,
Housing and Urban Development
Department, Madras 9.

4. The Executive Engineer and
Administrative Officer
Salem Housing Unit
Aiyantherumaligai Road
Salem 8.

5. The Special Tahsildar (Land
Acquisition) Jawar's Building
Fort Main Road, Salem 1.

6. The Section Officer,
Writ section,
High Court, madras
(for posting Wps T.L. 2 Weeks)

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1 cc to MR.I. Mahaboob Sherrif, Advocate, Sr. 41722
2 cs to Government Pleader Sr. 41887 & 41888

Writ Appeal Nos.3133/01&46/03

PV (CO)
kk 20/9

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